

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
to implement 2009 PA 182, MCL 484.2310.)
_____)

Case No. U-16183

At the January 11, 2010 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
 Hon. Monica Martinez, Commissioner
 Hon. Greg R. White, Commissioner

OPINION AND ORDER

On December 17, 2009, Governor Jennifer M. Granholm signed 2009 PA 182 (Act 182) into law. Act 182 amends MCL 484.2310 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2101 *et seq.* Act 182 was passed in an effort to reform toll access service rates in Michigan.

Except as provided in Act 182, the Commission is precluded from reviewing or setting the rates for toll access services. MCL 484.2310(1). However, under MCL 484.2310(2), the Legislature adopted the following provisions to govern the rates charged for toll access services:

A provider of toll access services shall set the rates for intrastate switched toll access services at rates that do not exceed the rates allowed for the same interstate services by the federal government and shall use the access rate elements for intrastate switched toll access services that are in effect for that provider and are allowed for the same interstate services by the federal government. Eligible providers shall comply with this subsection as of the date established for the commencement of the operation of the restructuring mechanism under subsection (9). Providers other than eligible providers shall not charge intrastate toll access service rates in excess of those rates in effect as of July 1, 2009 and shall reduce

the differential, if any, between intrastate and interstate switched toll access service rates in effect as of July 1, 2009 in no more than 5 steps of at least 20% each of the differential on the following dates: January 1, 2011; January 1, 2012; January 1, 2013; January 1, 2014; and January 1, 2015. Providers may agree to a rate that is less than the rate allowed by the federal government.

MCL 484.2310(2).

Among other things, Act 182 requires that the Commission administer a fund known as the intrastate switched toll access rate restructuring mechanism¹ (restructuring mechanism). MCL 484.2310(9).² The restructuring mechanism will be funded via “a mandatory monthly contribution by all providers of retail intrastate telecommunications services and all providers of commercial mobile service.” MCL 484.2310(12).³ This restructuring mechanism must “be established and shall begin operation within 270 days after the effective date” of Act 182.⁴ An eligible provider⁵ is entitled to receive monthly disbursements from the restructuring mechanism

¹See, MCL 484.2310(23)(e).

²Pursuant to MCL 484.2310(7), the restructuring mechanism will be established as a separate interest-bearing fund in the Department of Energy, Labor, and Economic Growth. The State Treasurer has authority to direct the investment of the restructuring mechanism. Money in the restructuring mechanism shall remain in the restructuring mechanism at the close of the fiscal year and shall not revert to the general fund.

³Interconnected voice over internet protocol (VoIP) services are not considered an intrastate telecommunications service for the purposes of this section and are not required to pay the mandatory monthly contributions required by MCL 484.2310(12).

⁴September 13, 2010 is the deadline for the Commission to begin operation of the restructuring mechanism. However, the Commission has discretion to establish an earlier effective date for the restructuring mechanism so long as it notifies “the participants in the restructuring mechanism at least 30 days in advance of that date.” MCL 484.2310(9).

⁵An eligible provider is defined as “an incumbent local exchange carrier as defined in section 251 of the telecommunications act of 1996, 47 USC 251, that as of January 1, 2009 had rates for intrastate switched toll access services higher than its rates for the same interstate switched toll access services, and that provides the services and functionalities identified by rules of the federal communications commission described at 47 CFR 54.101(a).” MCL 484.2310(23)(e). A list of

as provided in subsection (11) in order to recover the lost intrastate switched toll access service revenues resulting from rate reductions under subsection (2). MCL 484.2310(8).

The Commission has been charged with establishing “the procedures and timelines for organizing, funding, and administering the restructuring mechanism.” MCL 484.2310(10). As part of the administrative duties, the Commission needs to collect data, including confidential data, from providers, determine eligible providers’ distributions, and issue an order establishing the contribution percentage. The responsibilities to be borne by the Commission include all of the following tasks:

A. The submission of an annual report to the Legislature and the Governor “regarding the administration of the restructuring mechanism.” MCL 484.2310(10). These annual reports are to include the total amount of money collected from contributing providers, the total amount of money disbursed from the restructuring mechanism annually to each eligible provider, the costs of administration, and any other information considered relevant by the Commission. Although Act 182 is silent on a specific date for the commencement of the annual reporting requirement, because this obligation is meant to provide the Legislature and the Governor with useful data, the Commission concludes that the initial annual report should be submitted on December 1, 2011 (and annually on that date thereafter), which will allow 30 days for the gathering of a full year’s worth of data and 45 days to analyze the data and draft a report.

B. The gathering of data from providers for the calculation of the size of the initial restructuring mechanism.⁶ Pursuant to MCL 484.2310(11)(a), by February 16, 2010, each eligible

the providers that the Commission believes meet the definition of an eligible provider is attached to this order as Exhibit A.

⁶Company specific information pertaining to access lines, switched toll access services minutes of use, switched toll access demand quantities, contributions, and intrastate telecommunications services revenues submitted to the Commission are to be treated as confidential commercial or

provider shall submit to the Commission information and all the supporting documentation that establishes the amount of the reduction in annual intrastate switched toll access revenues that will result from the reduction in rates required by MCL 484.2310(2). In this regard, the Act provides that “[t]he reduction shall be calculated for each eligible provider as the difference between intrastate and interstate switched toll access service rates in effect as of July 1, 2009, multiplied by the intrastate switched access minutes of use and other switched access demand quantities for the calendar year 2008.” MCL 484.2310(11)(a).

C. The computation of the size of the initial restructuring mechanism. MCL 484.2310(11)(b) indicates that the Commission shall “compute the size of the initial restructuring mechanism disbursements for each eligible provider and shall inform each eligible provider of that computation within 60 days after receiving the information and supporting documentation from the eligible providers under subdivision (a).”

D. The gathering of data from each contributing provider⁷ regarding its 2008 intrastate retail telecommunications services revenues. Pursuant to MCL 484.2310(13), by February 16, 2010, each contributing provider must report to the Commission its 2008 intrastate retail telecommunications services revenues. In reporting their retail intrastate telecommunications revenues per Act 182, all contributing providers shall base their reports on revenues derived from retail intrastate telecommunications services as defined in MCL 484.2102(gg).⁸

financial information, which are exempt from public disclosure pursuant to MCL 484.2210(10) and MCL 484.2310(22).

⁷A contributing provider is defined as “an entity required to pay into the restructuring mechanism.” MCL 484.2310(23)(b).

⁸MCL 484.2102(gg) defines telecommunication services to include regulated and unregulated services offered to customers for the transmission of 2-way interactive communication and associated usage.

At the legislatively-mandated times, the Commission intends to issue further orders for each of the following items: informing each eligible provider of the amount it is entitled to receive (no later than April 16, 2010); informing all providers of the contribution percentage (no later than May 17, 2010); and notifying providers of the official start-date and the mechanics of paying into and receiving money from the restructuring mechanism (no later than August 16, 2010). Upon the start of the restructuring mechanism (no later than September 13, 2010), eligible providers must lower their intrastate access rates to a level no greater than their interstate access rates.⁹

Further, the Commission observes that its administration of Act 182 will obligate providers to make a variety of tariff filings, including the following items:

- Upon the official start date of the restructuring mechanism, eligible providers will need to file new tariffs that show rates no greater than interstate rates for the same elements.
- On January 1, 2011, providers other than eligible providers will need to file a new tariff or a brief explanation of how the provider is already meeting requirements of the legislation.¹⁰

⁹Some of these dates have been adjusted to account for weekends and holidays in accordance with MCL 8.6.

¹⁰For example, AT&T Michigan, Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems (Verizon), and many competitive local exchange carriers (CLECs) already mirror their interstate rates. If filing a new tariff, the provider should show that intrastate access rates have decreased by at least 20% from the rates in effect as of July 1, 2009 or to the level of the provider's interstate rates.

- On January 1, 2012, providers other than eligible providers will need to file a new tariff or a brief explanation of how the provider is already meeting requirements of the legislation.¹¹
- On January 1, 2013, providers other than eligible providers will need to file a new tariff or a brief explanation of how the provider is already meeting requirements of the legislation.¹²
- On January 1, 2014, providers other than eligible providers will need to file a new tariff or a brief explanation of how the provider is already meeting requirements of the legislation.¹³
- On January 1, 2015, providers other than eligible providers will need to file a new tariff or a brief explanation of how the provider is already meeting requirements of the legislation.¹⁴

THEREFORE, IT IS ORDERED that:

A. All providers shall submit the following information to the Commission by February 16, 2010:

1. The provider's July 1, 2009 intrastate switched toll access rates by rate element. If using a combined rate, the provider shall include detail on how the rate is developed, including references to the provider's tariffs wherein the rate or rates are found.

¹¹For example, AT&T Michigan, Verizon, and many CLECs already mirror their interstate rates. If filing a new tariff, the provider should show that intrastate access rates have decreased by at least 40% from the rates in effect as of July 1, 2009 or to the level of the provider's interstate rates.

¹²For example, AT&T Michigan, Verizon, and many CLECs already mirror their interstate rates. If filing a new tariff, the provider should show that intrastate access rates have decreased by at least 60% from the rates in effect as of July 1, 2009 or to the level of the provider's interstate rates.

¹³For example, AT&T Michigan, Verizon, and many CLECs already mirror their interstate rates. If filing a new tariff, the provider should show that intrastate access rates have decreased by at least 80% from the rates in effect as of July 1, 2009 or to the level of the provider's interstate rates.

¹⁴For example, AT&T Michigan, Verizon, and many CLECs already mirror their interstate rates. If filing a new tariff, new tariffs must show rates no greater than interstate rates for the same elements.

2. The provider's July 1, 2009 interstate switched toll access rates by rate element. If using a combined rate, include detail on how the rate is developed, including references to the provider's tariffs wherein the rate or rates are found.

3. If a provider is not providing toll access service, a statement to that effect.

B. All eligible providers shall submit the following information to the Commission by February 16, 2010 in the formay contained in Exhibit B:

1. The eligible provider's July 1, 2009 intrastate switched toll access rates by rate element. If using a combined rate, include detail on how the rate is developed, including references to the provider's tariffs wherein the rate or rates are found.
2. The eligible provider's July 1, 2009 interstate switched toll access rates by rate element. If using a combined rate, include detail on how the rate is developed, including references to the provider's tariffs wherein the rate or rates are found.
3. The eligible provider's total number of access lines in service as of December 31, 2008.
4. The eligible provider's intrastate switched access minutes of use for calendar year 2008 for each rate element, including number of terminations and mileage factors, as appropriate.

C. All contributing providers shall submit the following information to the Commission by February 16, 2010 as three separate numbers:

1. The contributing provider's 2008 total intrastate retail telecommunications services revenues.
2. The contributing provider's 2008 uncollectible intrastate retail telecommunications services revenues, actual or projected.
3. The contributing provider's 2008 total intrastate retail telecommunications revenues minus uncollectibles. (The value reported for subparagraph C3 should be equal to the value for subparagraph C1 minus the value for subparagraph C2.)

D. In reporting its retail intrastate telecommunications revenues per 2009 PA 182, each contributing provider shall base its report on revenues derived from retail intrastate telecommunications services as defined in MCL 484.2102(gg).

E. All information required to be filed by either 2009 PA 182 or this order shall be accompanied by a sworn affidavit by a person knowledgeable of the facts attesting to the accuracy and authenticity of all data provided.

F. Any provider that believes that it is not a contributing provider shall file a sworn affidavit by a person knowledgeable of the facts attesting to the fact that his or her company is not a contributing provider, and fully documenting the explanation for the position taken in the affidavit.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

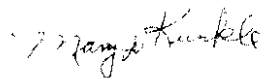


Orjiakor N. Isiogu, Chairman

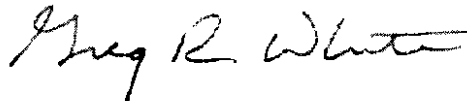


Monica Martinez, Commissioner

By its action of January 11, 2010.



Mary Jo Kunkle, Executive Secretary



Greg R. White, Commissioner

EXHIBIT A

Ace Telephone Company
Allendale Telephone Company
Baraga Telephone Company
Barry County Telephone Company
Blanchard Telephone Company
Bloomington Telephone Company
Carr Telephone Company
CenturyTel of Michigan
CenturyTel Midwest--Michigan, Inc.
CenturyTel of Northern Michigan
CenturyTel of Upper Michigan
Chapin Telephone Company
TDS Telecom/Chatham Telephone Company
Chippewa County Telephone Company
Climax Telephone Company
TDS Telecom/Communications Corporation of Michigan
Deerfield Farmers' Telephone Company
Drenthe Telephone Company
Frontier Telephone Company
Hiawatha Telephone Company
TDS Telecom/Island Telephone Company
Kaleva Telephone Company
Lennon Telephone Company
Midway Telephone Company
Ogden Telephone Company
Ontonagon Telephone Company
Peninsula Telephone Company
Pigeon Telephone Company
Sand Creek Telephone Company
TDS Telecom/Shiawassee Telephone Company
Springport Telephone Company
Upper Peninsula Telephone Company
Waldron Telephone Company
Westphalia Telephone Company
Winn Telephone Company
TDS Telecom/Wolverine Telephone Company

EXHIBIT B

Company Name
Contact Name
Phone Number
Email

Intrastate Switched Access Rate
Elements Billed Calendar Year 2008

Rate	Rate
Intrastate	Interstate
07/01/09	07/01/09

Carrier Common Line - Originating
Carrier Common Line - Terminating
Local Switching
Information Surcharge
Tandem Interconnection Charge
Tandem Switched Termination
Tandem Switched Facility
Tandem Switching
Shared Multiplexing DS3 -DS1
Shared Trunk Port
800 Data Base Access Service Queries - Basic
800 Data Base Access Service Queries - Vertical
Entrance Facility
 Voice Grade Two-Wire
 Voice Grade Four-Wire
 High Capacity DS1
 High Capacity DS3
 Synchronous Optic Channel OC3
 Synchronous Optic Channel OC12
Direct Trunk Facility
 Voice Grade
 High Capacity DS1
 High Capacity DS3
 Synchronous Optic Channel OC3
 Synchronous Optic Channel OC12
Direct Trunk Termination
 Voice Grade
 High Capacity DS1
 High Capacity DS3
 Synchronous Optic Channel OC3
 Synchronous Optic Channel OC12
Multiplexing DS3 to DS1
Multiplexing DS1 to Voice Grade

Reduction in annual intrastate switched toll access revenues

Access Lines at 12/31/08

[illegible]

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-16183

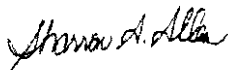
County of Ingham)

Lisa Felice being duly sworn, deposes and says that on January 11, 2010 A.D. she served a copy of the attached **Commission Order (Commission's Own Motion) via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).



Lisa Felice

Subscribed and sworn to before me
this 11th day of January 2010



Sharron A. Allen
Notary Public, Ingham County, MI
My Commission Expires August 16, 2011

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emcdonald@CHOICEONECOM.COM	Choice One Communications
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stacey_parker@CABLE.COMCAST.COM	Comcast Business Communications, LLC
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pmasters@ERNESTGROUP.COM	Ernest Communications, Inc.
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byuille@800GOQUICK.COM
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Media Gate Communications, Inc.
Nexus Communications
NOS Communications, Inc.
Osirus Communications, Inc.
PaeTec Communications, Inc.
Quantum Shift Communications
Quick Communications
Quick Communications, Inc.
Reliant Communications, Inc.
South American Communications
TransNational Communications
Trinsic Communications, Inc.
United Communications, Inc. dba Call

Vilaire Communications
Broadwing Communications, LLC (Level 3

Allendale Telephone Company
Baraga Telephone Company
Barry County Telephone Company
Carr Telephone Company
Chapin Telephone Company
Climax Telephone Company
Cypress Communications Operating

Hiawatha Telephone Company
Kaleva Telephone Company
Kaleva Telephone Company
Lennon Telephone Company
Ogden Telephone Company
Peninsula Telephone Company
Peninsula Telephone Company
Pigeon Telephone Company
Sand Creek Telephone Company
Springport Telephone Company
Springport Telephone Company
Sprint Communications Company, L.P.
U.S. Signal Company, LLC
Waldron Telephone Company
Winn Telephone Company; Winn

Comtech21, LLC
Allband Communications Cooperative
Cordia Communications Corp.
FairPoint Communications Solutions

New Horizons Communications Corp.
YMax Communications Corp.
Range Corporation
Tru Comm Corporation
TruComm Corporation
Covista, Inc.
CynergyComm.Net, Inc.
McLeod USA d/b/a Paetec Business

McLeodUSA Telecommunications Services

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Communications	
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AT&T Long D	
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Communications of	
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robin.brown@FUSIONBROADBAND.COM	Campus Communications Group
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Communications USA, LLC
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Dickson, TN 37035

Exhibit 4

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

**ACD Telecom, Inc.; DayStarr, LLC; Clear
Rate Communications, Inc.; TC3 Telecom,
Inc.; and TelNet Worldwide, Inc.**

Docket No. _____

Joint Petition for Expedited Declaratory Ruling
that the State of Michigan's Statute 2009 PA 182
is Preempted Under Sections 253 and 254 of the
Communications Act

_____ /

DECLARATION OF MARK IANNUZZI

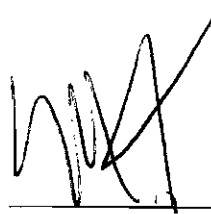
I, Mark Iannuzzi, declare under penalty of perjury as follows:

1. I am the President of TelNet Worldwide, Inc. ("TelNet"). I am responsible for the management and operation of TelNet.
2. TelNet is a competitive local exchange carrier ("CLEC") licensed to provide basic local exchange service in the State of Michigan.
3. TelNet currently provides telecommunications services in the service territories of CenturyTel Midwest – Michigan, Inc., CenturyTel of Michigan, Inc., CenturyTel of Northern Michigan, Inc., and CenturyTel of Upper Michigan, Inc., all of which are smaller ILECs that will

be eligible to obtain the “restructuring mechanism” subsidy under Michigan statute 2009 PA 182 (“Act 182”).

4. Under Act 182, although TelNet will be required to reduce its intrastate access rates, TelNet will not be eligible to receive the “restructuring mechanism” subsidy for the sole reason that TelNet is a CLEC.
5. As a result, the subsidy effectively lowers the rate of the smaller ILECs’ service in comparison with TelNet’s service in the amount of the state subsidy that is available to the smaller ILECs, but that is not available to TelNet.
6. Thus, the smaller ILECs will have the ability to price its services at rates lower than TelNet can provide.
7. The smaller ILECs’ resultant ability to offer lower prices will give TelNet’s current and potential customers in the smaller ILECs’ territories a strong incentive to choose service from the smaller ILECs rather than from TelNet.
8. TelNet’s inability to match the rates of the smaller ILECs will also inhibit TelNet’s ability to expand its services into additional smaller ILECs’ territories in the future.
9. Therefore, Act 182 harms TelNet’s ability to compete with the smaller ILECs, will result in the loss of TelNet’s current customers, and will inhibit TelNet’s ability to obtain additional customers.
10. TelNet will also be harmed because it will be required to make significant, unrecoverable expenditures to comply with Act 182’s reporting and tariffing requirements, and will be required to pay into the “restructuring mechanism” fund.

I declare under penalty of perjury that the foregoing is true and correct.



Mark Iannuzzi
President
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Troy, Michigan 48098

Dated: February 4, 2010